

Jeffrey A. Mitchell
8300 Greensboro Dr.
Suite 1200
Tysons, VA 22102

NOT ADMITTED IN VA
jmittell@fcclaw.com
(703) 584-8685
WWW.FCCLAW.COM

LLGS | LUKAS
LAFURIA
GUTIERREZ
& SACHS LLP

July 26, 2018

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

**Re: Notice of *Ex Parte* in WC Docket No. 02-60
Joint Petition for Waiver of Funding Year 2017 Commitment Deadlines**

Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, we hereby provide notice of an oral *ex parte* presentation in connection with the above-captioned proceeding. On Tuesday, July 24, 2018, Brian Thibeau, President of the New England Telehealth Consortium (NETC) and Connections Telehealth Consortium, and Jim Rogers, President of ProInfoNet and HealthConnect Networks, both appearing telephonically, and undersigned counsel, met separately with Nirali Patel, Special Counsel to Chairman Pai, and Amy Bender, Legal Advisor to Commissioner O'Rielly. On Wednesday, July 25, 2018, we met with the following individuals in the Wireline Competition Bureau (WCB): Elizabeth Drogula, Deputy Division Chief, Telecommunications Access Policy Division (TAPD), and legal advisors Regina Brown, Carol Pomponio, and Preston Wise.

The purpose of our meetings was to discuss the petition for waiver of funding commitment deadlines for funding year 2017 (FY) that NETC and CTC recently filed.¹ In our discussions with WCB we clarified that the specific funding requests referenced in the petition were representative examples and that the relief requested was general with respect to any FY 2017 funding commitment letter (FCL) issued to NETC or CTC in which services were ordered after issuance of the FCL in March 2018.² The petitions seeks to

¹ See [Joint Petition for Waiver of 47 C.F.R. Section 54.675\(d\)](#), WC Docket No. 02-60 (filed Jun. 10, 2018) (*NETC-CTC Petition*); 47 C.F.R. § 54.675(d) ("Annual filing requirement. Health care providers shall file new funding requests for each funding year, except for health care providers who have received a multi-year funding commitment under §54.644.").

² We assume that other participants in the Healthcare Connect Fund and, possibly, the Telecommunications Program could benefit from a general waiver also.

ensure affected health care providers can draw down their full twelve or thirty-six months of committed funding.

In our meetings we emphasized the unique circumstances caused by issuance of funding commitments late in the funding year. In our meeting with WCB we discussed how the initial size of the *pro rata* reductions and eventual reversal of those reductions by the Commission (which occurred after the *NETC-CTC Petition* was filed³) represented additional unique circumstances. This is because some health care providers who had forgone services due to the *pro rata* cuts would have reversed those decisions but for the fact there was not enough time left in the funding year to order services. We also explained how providing the requested relief will not increase funding demand and would reduce program inefficiencies caused by refiling requests for unused funding. (Indeed, granting the requested waiver will to some extent reduce demand in future years by reducing the need for future funding requests.)

In our meeting with WCB we also discussed how the circumstances in FY 2017 differed from FY 2016 (when FCLs were also issued late in the funding year), noting that fewer health care providers were willing to install services prior to receiving a funding commitment in FY 2017 out of fear of the impact of *pro rata* reductions. NETC and CTC also had a higher number of health care providers installing new services in FY 2017 than 2016. Thus, many more health care providers participating in NETC or CTC will not be able to use committed funding in FY 2017 than in FY 2016.

Sincerely,



Jeffrey A. Mitchell
Counsel to New England Telehealth
Consortium and Connections Telehealth
Consortium

³ See *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Report and Order, FCC 18-82 (*rel.* Jun 25, 2018).